

**TRANSCRIBED FROM DIGITAL RECORDING**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DON LIPPERT, et al., )  
)  
Plaintiffs, )  
)  
vs. ) No. 10 C 4603  
)  
PARTH GHOSH, M.D., et al., ) Chicago, Illinois  
) December 12, 2017  
Defendants. ) 10:03 A.M.

TRANSCRIPT OF PROCEEDINGS - Status  
BEFORE THE HONORABLE DANIEL G. MARTIN, Magistrate Judge

**APPEARANCES:**

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OF ACLU, INC.  
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BY: MS. CAMILLE E. BENNETT  
MS. LINDSAY STARK MILLER

For the Defendants: CITY OF CHICAGO, DEPARTMENT OF LAW  
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**NOTE: Please notify of correct speaker identification.  
FAILURE TO SPEAK DIRECTLY INTO THE MICROPHONE MAKES PORTIONS  
UNINTELLIGIBLE.**

**APPEARANCES: Continued**

For the Intervenor:           MICHAEL P. MAZZA, LLC  
686 Crescent Boulevard  
Glen Ellyn, Illinois 60137  
BY: MR. PAUL ROBERT HALE

1 (Proceedings held in open court:)

2 THE CLERK: 10 C 4603, Lippert versus Ghosh.

3 All right. Come on in. Gather around.

4 All right. We'll start with our plaintiffs, counsel  
5 for the plaintiffs.

6 MS. BENNETT: Good morning, your Honor. Camille  
7 Bennett, B-e-n-n-e-t-t, for the plaintiffs.

8 THE COURT: Ms. Bennett, good morning.

9 MS. MILLER: Good morning, your Honor. Lindsay  
10 Miller, M-i-l-l-e-r, for the plaintiffs.

11 THE COURT: Ms. Miller, good morning to you.

12 Okay. Here's our intervenor.

13 MR. HALE: Good morning, your Honor. Paul Hale,  
14 H-a-l-e, for intervenor Kenneth Burks, (unintelligible) Case  
15 Number 15 C 55.

16 THE COURT: Okay. Mr. Hale, good morning to you.

17 MR. HALE: Good morning, your Honor.

18 THE COURT: Our AGs.

19 MR. LOVELLETTE: Kevin Lovellette on behalf of the  
20 defendants. L-o-v-e-l-l-e-t-t-e.

21 THE COURT: Mr. Lovellette, good morning.

22 MR. LOMBARDO: Good morning, your Honor. Joe  
23 Lombardo, L-o-m-b-a-r-d-o, on behalf of the defendants in the  
24 Kenneth Burks case and, I guess, the dismissed defendant in  
25 this case.

1           THE COURT: Who is the dismissed defendant at this  
2 point, Athena Rossiter?

3           MR. LOMBARDO: Rossiter.

4           THE COURT: Okay. Good morning, Mr. -- why am I so  
5 tongue tied today -- Lovellette.

6           MR. LOVELLETTE: Lovellette.

7           THE COURT: Lovellette. You know, I'm -- you have  
8 only appeared in front of me for years and years and years.  
9 I'm sorry, Mr. Lovellette --

10          MR. LOVELLETTE: It's quite all right.

11          THE COURT: -- I'm sorry, I'm a little off my mark  
12 today.

13          Mr. Lombardo, good morning also.

14          All right. Class action referred for discovery  
15 supervision. We have some -- many items with which to deal  
16 today.

17          The district court has certified a class of all  
18 prisoners in the custody of the IDOC with serious medical or  
19 dental needs on August 15th of 2017.

20          Judge Alonso set the following dates regarding the  
21 class claims:

22          Your fact discovery on the class claims closes on  
23 March 2nd of 2018.

24          Plaintiffs's Rule 26(a)(2) disclosures and reports are  
25 to be served by March 2nd, 2018.

1           Depositions of plaintiffs's experts completed by April  
2           2nd of 2018.

3           Defendants's Rule 26(a)(2) disclosures and reports  
4           served by April 16th of 2018.

5           Depositions of defense experts completed by April  
6           30th, 2018.

7           All expert discovery completed by April 30th of 2018.

8           And dispositive motions with supporting memoranda due  
9           by May 30th of 2018.

10          Judge Alonso also has a status hearing set for May 2nd  
11          of 2018 at 9:30 in the morning.

12          On December 8th of 2017, Judge Alonso entered a second  
13          order appointing a second expert, Dr. Michael P-u-i-s-i-s, as  
14          an expert pursuant to Rule 706 of the Federal Rules of  
15          Evidence.

16          And that is the summary that I have of the case to  
17          date.

18          Several issues we have to follow up on today.

19          First, the state defendants's privilege log remains  
20          outstanding. It was due long, long ago. At our last status  
21          hearing on November 21st, I directed the state defendants to  
22          provide an update today regarding the progress of the privilege  
23          log.

24          What is the status of the privilege log, and when will  
25          it be completed? The date?

1           MR. LOVELLETTE: We will produce it in seven days,  
2 your Honor.

3           THE COURT: Seven days. All right. Thank you very  
4 much.

5           Second, November 21st, 2017, status. I gave the state  
6 defendants an extension until December 4th to update their  
7 production of the hard copy documents from the original eight  
8 prisons.

9           Was that done?

10          MR. LOVELLETTE: We missed the 4th, but it has been  
11 produced to the plaintiffs.

12          THE COURT: Done. Okay.

13          MS. BENNETT: Your Honor, we did receive documents  
14 last Friday; however, we have not received them for all eight  
15 facilities.

16          THE COURT: Okay. How many are missing?

17          MS. BENNETT: Do you know how many are missing?

18          MR. LOMBARDO: Your Honor --

19          THE COURT: Hard copy documents from the original  
20 eight prisons.

21          MR. LOVELLETTE: Your Honor, this is the first I'm  
22 hearing about this. Perhaps we could have a 37 -- Rule 37  
23 conference.

24          THE COURT: A Rule 37 conference when? Well, I want  
25 to know what's still missing, at least.

1 MS. BENNETT: Your Honor, the short answer is that a  
2 number of the folders contain documents from six prisons. They  
3 are actually the six prisons where the named plaintiffs were  
4 housed.

5 THE COURT: Yeah.

6 MS. BENNETT: So that means that we're missing three  
7 of the Shansky eight prisons.

8 There is also one folder called budget, which contains  
9 documents only from two prisons.

10 THE COURT: Okay. When can we have a conference and  
11 get that taken care of? Today before we leave the building?

12 MS. BENNETT: I know that -- I don't know that  
13 Mr. Lovellette actually knows the status of the contents of the  
14 discovery.

15 MR. LOVELLETTE: We thought we had produced  
16 everything. So I -- actually this might be better to do to go  
17 back to our offices and --

18 THE COURT: Fine.

19 MR. LOVELLETTE: -- you can have the information right  
20 in front of you, and then we can call.

21 THE COURT: It sounds like a plan. All right. That  
22 will be completed, let's say, at the very latest by the end of  
23 the week. Okay?

24 MR. LOVELLETTE: Okay.

25 THE COURT: All right. Third, last status hearing I

1 gave the state defendants until December 4th to provide updated  
2 responses to plaintiffs's second interrogatories, which were  
3 originally answered in 2013.

4 Was that done?

5 MR. LOVELLETTE: That has not been done.

6 THE COURT: Okay. You have got till Friday to do  
7 that. Okay?

8 MR. LOVELLETTE: Yes.

9 THE COURT: What is that, the 15th, this Friday?

10 THE CLERK: Yes.

11 MS. BENNETT: Yes.

12 THE COURT: Okay. December 15th that's due.

13 Okay. Fourth, parties were to meet and confer by  
14 November 29, 2017, on all other outstanding discovery issues,  
15 including, number one, a reasonable date for the defendants to  
16 update their discovery production, including emails, before  
17 trial; and, number two, the issues raised by plaintiffs's 11th  
18 motion to compel.

19 What is the status of these matters? Did you meet and  
20 confer November 29th, 2017?

21 MS. BENNETT: We did have a phone call to discuss  
22 these issues.

23 THE COURT: Okay.

24 MS. BENNETT: So we did learn that DOC has run some  
25 updated ESI searches, but they informed us that it is going to



1 take about three months to finish reviewing and getting those  
2 documents to us. And as your Honor noted, our --

3 THE COURT: Hurry up and wait.

4 MS. BENNETT: -- discovery cutoff is March 2nd. And  
5 we have -- we're also informed that DOC needs to schedule  
6 depositions for the month of February.

7 So we need these updated documents prior to being able  
8 to take these depositions.

9 THE COURT: When is a reasonable time within which to  
10 order them and take -- get them to you and to have them?

11 Give me a date that conforms with all these other  
12 dates. Thirty days?

13 MS. BENNETT: Thirty days would be fine, your Honor.

14 MR. LOVELLETTE: Can I ask --

15 THE COURT: Forty-five?

16 MR. LOVELLETTE: Forty-five because of the Christmas  
17 holiday.

18 THE COURT: Forty-five.

19 MR. LOVELLETTE: Thank you.

20 THE COURT: Forty-five days to update discovery  
21 production, including emails, before trial, and any issues  
22 raised by plaintiffs's 11th motion to compel. Forty-five days  
23 due.

24 Fifth, on November 28th intervenor Burks filed his  
25 alternate motion to intervene to modify a protective order in

1 this case seeking an order allowing Dr. Shansky to testify in  
2 Mr. Burks's case. Okay. Defendants's joint response is not  
3 due yet. It is due on the 19th.

4 But Mr. Burks, I'm asking Mr. Hale, and the former  
5 Mr. Burks, if the order in this case was modified to allow  
6 Dr. Shansky to testify in Burks's case, who is it who would pay  
7 Dr. Shansky's fees?

8 Step up and let me know.

9 MR. HALE: Ummm --

10 THE COURT: You didn't address that issue in your  
11 motion, Mr. Hale.

12 Step up so we can hear your response.

13 MR. HALE: My firm would be happy to assume the costs  
14 if they are -- if they are reasonable, your Honor.

15 We are considering expert discovery on another matter.  
16 Judge Andrea Wood has -- is about to enter a discovery  
17 schedule.

18 So there is expert discovery contemplated in this  
19 case. If Dr. Shansky's testimony seems relevant, as it seems  
20 to based upon his writings in his published report, my firm  
21 would be interested in paying, your Honor. I don't think there  
22 is any sort of Northern District of Illinois disburseable funds  
23 available to my firm at this point because --

24 THE COURT: I don't think so.

25 MR. HALE: -- we're appointed counsel. So short

1 answer, we're happy to pay.

2 THE COURT: Okay. Is there a motion hearing set for  
3 12-28 on the motion?

4 MR. HALE: Your Honor, I accidentally -- I, in error,  
5 noticed --

6 THE COURT: Okay. Why don't we strike that day, and  
7 we'll just take the responses, and we'll issue an --

8 MR. HALE: Yeah.

9 THE COURT: Pardon?

10 Do you want to file a reply after they file their  
11 joint response?

12 MR. HALE: Yes, please, your Honor.

13 THE COURT: Okay.

14 MR. HALE: Short date. Whatever works for you.

15 THE COURT: Well, what works for you, a week later?  
16 Seven days after 12-19 on a response day?

17 MR. HALE: That would be great, your Honor. Thank  
18 you.

19 THE COURT: Where does that put us?

20 (Discussion off the record.)

21 THE COURT: All right. We'll the get these dates  
22 entered.

23 (Discussion off the record.)

24 THE COURT: 12-26.

25 MR. LOMBARDO: Your Honor, may I raise an issue

1 regarding the response?

2 THE COURT: Let's get that -- let's get that date  
3 first, and then we can raise the issue.

4 Okay. What's the issue regarding the response?

5 MR. LOMBARDO: Speaking to Ms. Bennett, who has been  
6 in contact with Ms. Shansky or Dr. --

7 THE COURT: Ms.?

8 MR. LOMBARDO: Dr. Shansky. Excuse me.

9 THE COURT: Okay.

10 MR. LOMBARDO: It appears that Dr. Shansky is willing  
11 to sign it or is under the impression that he would have never  
12 gone or been willing to get this appointment had he known that  
13 he would be susceptible to depositions in other IDOC and  
14 Wexford cases. And I'll let Ms. Bennett correct me if I am  
15 wrong because I did not speak to him.

16 So I guess we made -- we may need a declaration or  
17 affidavit from Dr. Shansky to support our motion. Or, I mean,  
18 if the Court is just willing to take Ms. Bennett at her word,  
19 that's -- that's Dr. Shansky's stance on the matter, that would  
20 be fine too. And we can get it -- a response on file by the  
21 19th.

22 However we do need his declaration. We're probably  
23 going to need some additional time.

24 THE COURT: What kind of a declaration are you  
25 referring to?

1 MR. LOMBARDO: It would be Dr. Shansky, affying to the  
2 fact that had he known he would ever have to be appointed -- or  
3 be giving depositions in other Wexford, IDOC cases, he would  
4 not have agreed to become a court-appointed expert in this  
5 matter.

6 And I think Dr. Puisis -- I haven't spoken with him.  
7 I don't know if Ms. Bennett has -- but I think that -- there  
8 would be an argument there that he was not going to be willing  
9 to accept the appointment had he known he is going to have to  
10 give depositions in other Wexford, IDOC cases.

11 Or the Court --

12 THE COURT: Nothing I can do about that right now.  
13 But go ahead, Mr. Lombardo.

14 MR. LOMBARDO: So I would say that if the Court is not  
15 willing just to accept, you know, Ms. Bennett's word that  
16 that's Dr. Shansky's opinion, then I think I would need a  
17 couple more weeks for Ms. Bennett to obtain a declaration on  
18 that issue.

19 THE COURT: Let's hear from Ms. Bennett.  
20 What's your take?

21 MS. BENNETT: Your Honor, first of all, we have no  
22 idea what Dr. Puisis would say about this.

23 Here is what Dr. Shansky told me when I spoke to him  
24 back in early October. As I reported last time, that was when  
25 I discovered he didn't have any documents, having disposed of

1 his files when he moved --

2 THE COURT: Right.

3 MS. BENNETT: -- in October of 2016, well before the  
4 Burks's subpoena was served.

5 But he -- what is at issue that concerns the Lippert  
6 parties in particular in this case is the order that appointed  
7 him in the first place, which is Docket 244 in this case, the  
8 agreed order appointing the expert.

9 And there are two paragraphs in there that restricted  
10 Dr. Shansky from doing what the Burks's plaintiffs want him to  
11 do.

12 One, he was supposed to retain all materials that were  
13 given to him by the Department of Corrections in the course of  
14 his investigation as confidential.

15 And also he was not permitted to testify in any other  
16 cases.

17 THE COURT: Okay.

18 MS. BENNETT: And those are both provisions of the  
19 order.

20 And that is the -- why we are here because that order  
21 has to be undone for Dr. Shansky to do what the Burks's  
22 plaintiffs want.

23 The other -- so as long as I was talking to  
24 Dr. Shansky that day, I asked him about the deposition  
25 provision because I anticipated that that might come up down

1 the line.

2 And what he told me was this. He said, I have been  
3 doing this for 30 years. The provisions that are in the agreed  
4 order are extremely standard provisions. I have never had to  
5 turn over documents or give a deposition in an unrelated case  
6 where I have been performing the kind of consultant or expert  
7 analysis that I did here in Lippert.

8 And, moreover, I wouldn't have agreed to take -- take  
9 on this work. And I don't think anybody else would if they  
10 were going to be exposed to being deposed in hundreds of cases.

11 I think that the Court should not simply take my word  
12 for this. I mean, this is an important matter. And I -- I  
13 actually suggested to Mr. Lombardo that this being what  
14 Dr. Shansky's position was, it probably would be a good idea to  
15 get a declaration from him and --

16 THE COURT: Absolutely. We're going to go through the  
17 entirety of the process. And your joint response is due on  
18 12-19. And if you need more time within which to get a  
19 declaration, you can do that. All right?

20 I want to examine everything that's relevant to all  
21 sides of the issue, and then we'll give you a ruling with  
22 respect to the present motion that's pending before the Court  
23 to modify the protective order in the case allowing Dr. Shansky  
24 to testify in Burks's case. That's at the center of it all.  
25 I'm not going to make a ruling from the bench.

1           So let's get online with whatever the dates are.  
2       Right now the 19th and the 26th.

3           If someone needs more time to obtain a declaration,  
4       that's not going to be a glitch, you know. It is not going to  
5       be an impediment. I mean, this is a case about -- about  
6       allowing the parties to fully explain and air their positions,  
7       and then considered and thoughtful rulings.

8           All right. So I think we're jumping the gun a little  
9       bit here.

10          MR. LOMBARDO: Well, I think -- I think it is due in  
11       one week, your Honor. So I think we definitely would need more  
12       time for the declaration. I'd prefer --

13          THE COURT: Make a note of that. And as I have said  
14       to you, I'm not going to bar you from filing that. Okay?

15          MR. LOMBARDO: So you want us to re- -- just file a  
16       motion and come back?

17          THE COURT: Right.

18          MR. LOMBARDO: That's fine.

19          THE COURT: What do you want?

20          Let me confer with my boss here. Thanks

21       (Discussion off the record.)

22          THE COURT: Okay. All right. I haven't been  
23       overruled but I have conferred --

24       (Laughter.)

25          THE COURT: -- with the highest authority available to



1 me at this time.

2 What would you need in order to file a joint response  
3 that includes the declaration or whatever else you believe is  
4 important or essential to your adequate response?

5 MR. LOMBARDO: I would defer to Ms. Bennett on that.

6 THE COURT: All right.

7 MR. LOMBARDO: I would notice it for -- I don't think  
8 it is going to be fully a joint response because I don't think  
9 Ms. Bennett is joining all of the reasons why I'm opposing this  
10 motion. I think she's just going to file a brief response that  
11 includes the declaration.

12 THE COURT: I thought it was defendants's joint  
13 response. And --

14 MR. LOMBARDO: We're (unintelligible).

15 THE COURT: -- now you're telling me that they are  
16 going to be individual responses? That's a different issue.

17 So what do we have here?

18 MR. LOMBARDO: Well, I'll just defer to Ms. Bennett.

19 How long do you need for the declaration?

20 MS. BENNETT: Your Honor, when the defendants had  
21 previously briefed the Burks's previous motion, they did  
22 get -- give us, the plaintiffs, an opportunity to review it  
23 before they filed it. And it was apparent to us there were a  
24 number of issues in this case that are Burks specific that  
25 really are not things that we would join in. So we would have

1     only joined in part of the response anyway.

2             What I had suggested to Mr. Lombardo today was that we  
3     would submit -- I would do my best to get the Shansky  
4     declaration in time, and we -- we would likely deliver -- the  
5     Lippert plaintiffs would likely submit that as our --

6             THE COURT:   Okay.

7             MS. BENNETT:  -- contribution to the briefing as it  
8     were.

9             THE COURT:  Joint and several responses.

10            MS. BENNETT:  Right.

11            THE COURT:  When do you want -- what time do you want?

12            MR. LOMBARDO:  I would suggest January 9th in lieu of  
13     the holidays.

14            THE COURT:  Okay.  That sounds reasonable to me,  
15     January 9th.

16            And January 16th for a reply.

17            MR. LOMBARDO:  Thank you, your Honor.

18            THE COURT:  Does that sound fine?

19            And if you -- you know, if you need a little extra  
20     time, if you're running up against it, file an agreed motion.  
21     All right?

22            And I -- and I'm always pleased when parties cooperate  
23     with each other on things like agreed motions to extend time  
24     for relatively short periods.  Okay?  Obstreperous conduct is  
25     always viewed with great disdain by me.

1 Cooperate with each other. Okay? I mean, you know  
2 you could have just said, we need more time, and I -- I am not  
3 the toughest guy in the building with respect to that. Okay?

4 January the 9th, January 16th.

5 And that should do it?

6 MR. LOMBARDO: That will do it.

7 THE COURT: All right. And if you think it is not  
8 going to -- yes, Ms. Bennett, you're raising your hand.

9 MS. BENNETT: I -- I am, Judge, but it is a different  
10 matter.

11 THE COURT: All right. Let's wait until we have  
12 resolved this.

13 So the 9th and the 16th are good dates?

14 MR. LOMBARDO: Yes, your Honor.

15 THE COURT: Okay.

16 MS. BENNETT: Yes, your Honor.

17 THE COURT: So let me know ASAP if you need a little  
18 more time, if Dr. Shansky's out of the country or something.  
19 Okay?

20 I don't want to engage in any kind of (unintelligible)  
21 form over substance. All right? And then I have said all I'm  
22 going to do on that.

23 Go ahead.

24 MS. BENNETT: It is taking your Honor's caution about  
25 obstreperousness with some seriousness. We did gloss over one

1 issue earlier, which is the documents in the 11th motion to  
2 compel.

3 THE COURT: Okay.

4 MS. BENNETT: We still don't have those, and I don't  
5 --

6 THE COURT: I know.

7 MS. BENNETT: -- believe that the defendants claim to  
8 have produced them.

9 THE COURT: The issues raised by plaintiffs's 11th  
10 motion to compel are due and owing. I had three months set  
11 out, and that seems like a long time because that's been  
12 pending for quite some time. Now what do you want us to do?

13 Your opponents have said three months. It  
14 is -- they're culling through. They're doing -- I mean, this  
15 has been a very, very slow and tedious discovery process for  
16 everyone, you know.

17 In fact, I think -- what happened to Duran? Did he  
18 leave? Is he not going to show up? I thought we had a really  
19 good thing going, Duran and I, you know. Remember, we had a  
20 settlement conference, Mr. Lombardo, and we all --

21 MR. LOMBARDO: I wasn't there.

22 THE COURT: You weren't there for that one?

23 MR. LOMBARDO: (Unintelligible) was on the underlying  
24 (unintelligible).

25 THE COURT: All right.

1 MR. LOMBARDO: (Unintelligible).

2 THE COURT: You know, I hope it wasn't something I  
3 said, you know? He's not obstreperous, he just kind of smiles  
4 and says, we'll do the best we can.

5 What do you propose, Ms. Bennett?

6 MS. BENNETT: Judge, the documents at issue in the  
7 11th motion to compel aren't update documents, they date back  
8 to the 5th request for production --

9 THE COURT: All right.

10 MS. BENNETT: -- which was served in May of 2016, and  
11 we have been trying to get them ever since.

12 And the defendant (unintelligible) enormous amount of  
13 back and forth about these over time, and I would -- you know,  
14 could review it for the Court, but I don't have to depending  
15 on --

16 THE COURT: Mr. Lovellette, can we really put some  
17 emphasis on that and get that taken care of?

18 MS. BENNETT: And the -- in the meet and confer that  
19 we had on November 29th, Mr. Lovellette wasn't able to  
20 participate, so his younger colleague Mr. Stephenson  
21 participated. And Mr. Stephenson --

22 THE COURT: A fine young man.

23 MS. BENNETT: -- (unintelligible).

24 THE COURT: I want the --

25 MS. BENNETT: He did nothing --

1 THE COURT: -- A troops on this.

2 MS. BENNETT: He knew nothing about this.

3 THE COURT: All right.

4 MS. BENNETT: He would report back to the higher ups.  
5 But that's where this --

6 THE COURT: Mr. Lovellette is going to be in on this  
7 one. Let's do it according to your schedule. Okay? I don't  
8 call you the A troops for nothing. Okay? And Stephenson is a  
9 wonderful young lawyer, and it is not to disparage him, but  
10 come on, guys.

11 There is a new year coming up. And I would really  
12 like to, at our next status, like in January, whenever it will  
13 be, to say that a lot of these issues have been resolved, and  
14 we can move forward with this litigation. This is one of the  
15 first cases I -- that I had as a Judge, and it is still here.

16 So let's set a status.

17 THE CLERK: January 18th.

18 THE COURT: All right. Well, I'm going to put that to  
19 Mr. Lovellette.

20 When can we get the documents?

21 MR. LOVELLETTE: I honestly --

22 THE COURT: The issue is raised. Eleventh motion to  
23 compel. You have got to give me a time, and I'm going to  
24 enforce it, and then there is going to be some teeth behind it.  
25 I mean --

1           MR. LOVELLETTE: I don't know exactly what those  
2 documents are. I don't know where they are located.

3           THE COURT: Okay.

4           MR. LOVELLETTE: I have to talk to DOC in order to  
5 answer that question.

6           THE COURT: Yeah. You're going to talk with them by  
7 the close of business Friday. And you have three months max.

8           You said three months. What do you want me to do --

9           MS. BENNETT: Your Honor --

10          THE COURT: -- three weeks?

11          MS. BENNETT: Your Honor, three months would take us  
12 past the close of fact discovery --

13          THE COURT: All right. Give me a date, Ms. Bennett.

14          MS. BENNETT: -- in this case.

15          THE COURT: What's reasonable?

16          MS. BENNETT: Thirty days.

17          THE COURT: Thirty days.

18          MR. LOVELLETTE: We -- we have got to object, Judge.  
19 I don't even know what these documents are.

20          MS. BENNETT: Your Honor --

21          MR. LOVELLETTE: They are --

22          THE COURT: They have sent them forth in a 5th motion  
23 to compel and an 11th motion to compel. You have had notice of  
24 them at least in two motions to compel, and you keep saying you  
25 don't know what the documents are.

1           What do you want me to do? Every time you come in  
2 say, have a meet and confer, tell them again what the documents  
3 are that you have been seeking for all these months?

4           Okay. Talk about it. Get it straight. We'll have a  
5 status next Tuesday morning, and I want to know that you know  
6 and everybody knows what the documents are in their entirety so  
7 that I don't have to mess around with this on a 14th or 15th  
8 motion to compel. Okay?

9           MS. BENNETT: Your Honor, I was actually going to  
10 suggest, given the circular nature of the conversations that I  
11 have been having with the defendants about this every time,  
12 Mr. Duran has told me he doesn't know where the documents are.

13           THE COURT: I know.

14           MS. BENNETT: That Kevin and Mike are dealing with  
15 this. Mr. Stephenson said he didn't know what they are. And  
16 Mr. Lovellette has now said he doesn't know what they are.

17           I -- it would -- might advance this if someone from  
18 the legal department in the Department of Corrections were on  
19 the phone for the status next Tuesday since Mr. Lovellette has  
20 said that they are the ones who would know what these documents  
21 are. And then perhaps we could get to the bottom of this  
22 because it doesn't seem as if, you know, they have been asked.

23           THE COURT: All right. Well, let's do this. You're  
24 going to meet and confer and determine with absolute precision  
25 what each and every one of these documents are by Friday.



1           And on Tuesday, if there is an individual with whom  
2 the Court should speak, I want you to have that individual  
3 ready and have that phone number ready, and we'll get that  
4 person on the line.

5           I don't want that issue to be raised now. I do want  
6 to anticipate that it might come up at our status next Tuesday  
7 and to have someone we can reach out to. We have conference  
8 call, telephone, speakers, recording devices. We're fully  
9 equipped. Okay?

10           We're sort of done with this issue. And it is about  
11 time that we just really march forward or I'm going to start  
12 considering harsher measures. Okay?

13           Seriously, let's get it done. We have been dragging  
14 and dragging. I know there is always something that is  
15 (unintelligible). I'm not accusing anyone of bad faith. But,  
16 you know, I really need to see some resolution to this. Okay?

17           Friday, meet and confer by Friday.

18           Make sure they know all of the documents that are the  
19 subject. Maybe just print it out. Okay? And if there is a  
20 difficulty with respect to that, you better raise it with me  
21 Tuesday because I'm going to expect a full compliance with this  
22 long overdue discovery. Okay?

23           MS. BENNETT: Your Honor, I have sent emails. I have  
24 sent --

25           THE COURT: I understand.

1 MS. BENNETT: -- lists.

2 THE COURT: Let's --

3 MS. BENNETT: I -- they should know what these are.

4 THE COURT: Well, let's start a new day today. Okay?

5 And we'll proceed as positively as we can from there.

6 Everybody onboard?

7 All right. See you next Tuesday, 9:30?

8 MR. LOVELLETTE: Yes.

9 THE COURT: Okay.

10 MS. BENNETT: Thank you, your Honor.

11 MR. LOVELLETTE: Thank you, your Honor.

12 (Which concluded the proceedings.)

13 CERTIFICATE

14 I certify that the foregoing is a correct transcript  
15 from the digital recording of proceedings in the above-entitled  
16 matter to the best of my ability, given the limitation of using  
17 a digital-recording system.

18

19

20 /s/ **Pamela S. Warren**  
21 Official Court Reporter  
22 United States District Court  
Northern District of Illinois  
Eastern Division

March 5, 2018  
Date

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